

013159

JPRS 82268

18 November 1982

Worldwide Report

LAW OF THE SEA

No. 213

19990810 106

DISTRIBUTION STATEMENT A
Approved for Public Release
Distribution Unlimited



2010 RELEASE UNDER E.O. 14176

FBIS

FOREIGN BROADCAST INFORMATION SERVICE

REPRODUCED BY
NATIONAL TECHNICAL
INFORMATION SERVICE
U.S. DEPARTMENT OF COMMERCE
SPRINGFIELD, VA. 22161

6
25
AOD2

NOTE

JPRS publications contain information primarily from foreign newspapers, periodicals and books, but also from news agency transmissions and broadcasts. Materials from foreign-language sources are translated; those from English-language sources are transcribed or reprinted, with the original phrasing and other characteristics retained.

Headlines, editorial reports, and material enclosed in brackets [] are supplied by JPRS. Processing indicators such as [Text] or [Excerpt] in the first line of each item, or following the last line of a brief, indicate how the original information was processed. Where no processing indicator is given, the information was summarized or extracted.

Unfamiliar names rendered phonetically or transliterated are enclosed in parentheses. Words or names preceded by a question mark and enclosed in parentheses were not clear in the original but have been supplied as appropriate in context. Other unattributed parenthetical notes within the body of an item originate with the source. Times within items are as given by source.

The contents of this publication in no way represent the policies, views or attitudes of the U.S. Government.

PROCUREMENT OF PUBLICATIONS

JPRS publications may be ordered from the National Technical Information Service, Springfield, Virginia 22161. In ordering, it is recommended that the JPRS number, title, date and author, if applicable, of publication be cited.

Current JPRS publications are announced in Government Reports Announcements issued semi-monthly by the National Technical Information Service, and are listed in the Monthly Catalog of U.S. Government Publications issued by the Superintendent of Documents, U.S. Government Printing Office, Washington, D.C. 20402.

Correspondence pertaining to matters other than procurement may be addressed to Joint Publications Research Service, 1000 North Glebe Road, Arlington, Virginia 22201.

18 November 1982

**WORLDWIDE REPORT
LAW OF THE SEA**

No. 213

CONTENTS**ASIA****AUSTRALIA****Briefs**

Soviet Cocos Islands Incident	1
Fishing Pact With Thailand	1
Fishing Agreement With Japan	2

PHILIPPINES

Sea Safety Pact Signed With Japan (BULLETIN TODAY, 30 Oct 82)	3
Japanese Boat Held for Illegal Fishing (Wilma Tamzon; BULLETIN TODAY, 1 Nov 82)	4

LATIN AMERICA**ARGENTINA****Briefs**

Fish Catch Rises	5
------------------	---

BERMUDA

Marine Environment Study Completed, Offers Proposals (ROYAL GAZETTE, 8 Oct 82)	6
---	---

COLOMBIA

LOS Diplomat on Relations With Venezuela (EL TIEMPO, 4 Oct 82)	8
---	---

JAMAICA

Shearer Calls for Ratification of Law of the Sea
(DAILY GLEANER, 8 Oct 82) 10

Jamaica Reports Preparations for ISA Officers
(CANA, 30 Oct 82) 12

WEST EUROPE

INTERNATIONAL AFFAIRS

Spanish Fishermen Protest French Policy in Bay of Biscay
(Ignacio Alonso; EL PAIS, 16 Oct 82) 13

FEDERAL REPUBLIC OF GERMANY

Commentator Recommends Government Not Sign LOS Treaty
(Klaus Broichhausen; FRANKFURTHER ALLGEMEINE, 11 Sep 82) ... 15

BRIEFS

SOVIET COCOS ISLANDS INCIDENT--THE Federal Government has lodged a protest with the Soviet embassy in Canberra over the behavior of the captain of a Russian research vessel. The vessel, Antaris, called at the Cocos Islands, an Australian-administered group of 27 atolls in the central Indian Ocean, late last month. The captain told local officials the Antaris had engine trouble and he wanted to carry out repairs. The officials directed the captain repeatedly to a safe anchorage on South Keeling Island. The captain refused and moored his ship on North Keeling Island. Both islands are part of the Cocos group. A spokesman for the Department of Foreign Affairs in Canberra said yesterday the Government was concerned over the captain's defiant action and the incident had been taken up with the Soviet embassy. The Minister for Home Affairs and the Environment, Mr McVeigh, confirmed last week that Cabinet had discussed sightings of Soviet submarines in the area. The Cocos Islands, which will become an overseas territory of Australia next year after a UN supervised act of self determination for the 320 Cocos Malays, have great strategic significance for the Western alliance. The airstrip on West Island is used by the RAAF as a staging base for reconnaissance flights in the central Indian Ocean and by the US Air Force staging through to Diego Garcia. [Canberra THE AUSTRALIAN in English 22 Sep 82 p 3]

FISHING PACT WITH THAILAND--BANGKOK, Wednesday--Captains of Thai fishing trawlers and their crews are being instructed in international law and codes of seagoing behaviour before they begin fishing in Australian waters. The Royal Thai Navy is conducting the courses, the managing director of a Thai-Australian fishing company, Mr Graeme Mathieson, said today. He said his company, Coldstream International Corporation Ltd, hoped to begin trawling in the Arafura Sea in the next few weeks. Authorities in Queensland, Western Australia and the Northern Territory had approved, and authorisation from Canberra was expected any day now. Mr Mathieson said his agreement with the Australian authorities was a normal one for this type of operation, giving his fleet an annual catch quota worth perhaps nearly \$20 million. All the catch would be landed in Australia and sold there. Australian officials indicated earlier that the project envisaged landing only a small proportion of the catch, with the bulk being shipped directly to a number of Asian countries for processing. Mr Mathieson said all the catch would be sold in Darwin, where there was adequate cold storage. Some would be exported, but all would go out as an Australian export. There were plans later for a cannery in Darwin. Ultimately his company, which was 51 per cent Thai and the remainder mainly Australian, would invest about \$4 million in the project. Initially 30 Thai trawlers flying both the Thai and Australian flags would be fishing. [Neil Kelly] [Sydney THE SYDNEY MORNING HERALD in English 23 Sep 82 p 10]

FISHING AGREEMENT WITH JAPAN--Australia and Japan have reached agreement on longline tuna fishing in Australian waters for another 12 months. Minister for Primary Industry Nixon says the agreement is still subject to formal approval but is expected to come into effect on 1 November. Nixon says under the new agreement, Japan has confirmed that Australian cod tuna can be sold in the Japanese market. He says that to avoid problems with Australian fishermen, an area off the north coast of New South Wales has been closed to Japanese boats. The minister said in return for access to areas in the Australian fishing zone, the Japanese had agreed to share any international control restrictions on tuna catchers and to take account of recent expansion of the Australian industry. [Text] [BK141333 Melbourne Overseas Service in English 0830 GMT 13 Oct 82]

CSO: 5200/4302

PHILIPPINES

SEA SAFETY PACT SIGNED WITH JAPAN

Manila BULLETIN TODAY in English 30 Oct 82 p 23

[Text]

The safety of shipping lanes transiting between the Philippines and Japan was further enhanced this week with the conclusion of the first bilateral conference between the Philippine Coast Guard and the Japanese Maritime Safety Agency.

With Minister Nagao Hyodo and a representative from the local Ministry of Foreign Affairs as witnesses, top officers of the two coast guard units signed an agreement enumerating the areas where they intend to take joint or complementary actions.

Vice Admiral Shinji Nakajima and Commodore Brillante C. Ochoa called their agreement "guidelines

for cooperative efforts between the Philippine Coast Guard and the Japanese Maritime Safety Agency."

The pact specifically mentions maritime safety, search and rescue, marine environmental protection, aids to navigation, training, exercises, and international (SOLAS) conventions as their areas of mutual concern.

Like the previous PCG-US Coast Guard agreement, the present pact also provided for an annual review of their actions "to promote harmonious relations between the two agencies, facilitate solutions to common problems, and contribute to professional development."

CSO: 5200/4303

PHILIPPINES

JAPANESE BOAT HELD FOR ILLEGAL FISHING

Manila BULLETIN TODAY in English 1 Nov 82 pp 1, 9

[Article by Wilma Yamzon]

[Text]

A Japanese fishing boat was apprehended the other day by the Philippine Coast Guard and Philippine Navy several miles west of Balabac, Palawan, for illegal entry and fishing, the Philippine Coast Guard (PCG) reported.

The PCG station in Palawan said the operation group was on a patrol aboard BRP Sultan Kudarat Patrol Ship 22 when they spotted the Japanese ship. They found in its hold six tons of fish.

In a report to PCG commandant Brillante C. Ochoco, Capt. Gil Mariano, PCG 4th district commander, said the vessel's master alleged he obtained a fishing permit from the Palau Maritime Authority signed by its deputy director, Marhence Madranchar.

The vessel was deep in the Philippine waters and the permit was good only in the jurisdiction of Palau islands, Western Carolines, in the Pacific, not in the China Sea.

Kogi Kobune, 1st secretary of the Japanese embassy in the Philippines, enplaned for Puerto Princesa city where the vessel and its crew are being held.

Mariano identified the officers and crew as Tetsuyuki Matluda, master; Mario Shiroma, engineer; Masaru Oshiro, Takeyoshe Nakasone, Choei Fukuyama, and Hideo Kabashigawa.

Ochoco said this is the first apprehension of a Japanese vessel since last year. Only last week, an agreement between the Philippine and Japan Coast Guard was signed for cooperation in rescue and safety operations and enforcement of maritime laws. (Wilma Yamzon)

CSO: 5200/4303

ARGENTINA

BRIEFS

FISH CATCH RISES--The output of Argentina's fishing industry rose 60 percent during the first half of this year as compared to the same period of 1981, the maritime interests secretariat announced yesterday. The total catch during the first six months of this year was 223,000 tons, and the official report stresses that the production increased despite "operational difficulties" in the sector as a result of the south Atlantic conflict with Britain. [Text] [PY122353 Buenos Aires BUENOS AIRES HERALD in English 12 Oct 82 [page not given] PY]

CSO: 5200/2001

MARINE ENVIRONMENT STUDY COMPLETED, OFFERS PROPOSALS

Hamilton ROYAL GAZETTE in English 8 Oct 82 p 3

[Text]

A five-year study into Bermuda's inshore waters has concluded that the Island's marine environment faces no immediate threat — provided the "delicate balance" between Man and ocean is preserved.

The report — the product of a Government-sponsored research team from the Bermuda Biological Station aided by 38 scientists and eight universities — was presented by Dr. the Hon. John Stubbs, Minister of Agriculture and Fisheries at a press conference held yesterday.

He commented: "We cannot be complacent about our marine environment but we can be cautiously optimistic."

The five-year research programme cost between \$350,000-400,000. Its report points out from the outset: "After five years of intensive studies no clear evidence of significant sewage pollution has been found in the inshore waters."

But, it continues: "At present, the marine environment copes adequately with sewage inputs. However, the Bermuda marine ecosystem is delicately

balanced and depends on many equilibria."

"An increased sewage input, or even continuation of the present input, may eventually lead to an unbalanced system, with serious consequences for the local marine environment."

The team has drawn up a series of recommendations including steps to control and eventually reduce sewage input as well as other water quality measurements and checks on the presence of items such as pesticides.

Other suggestions include:

- Short-term, intensive studies of human impact on Hamilton Harbour.
- Yearly surveillance, by helicopter and diving, of Cladophora mats (the prolific green algae that caused concern among environmental groups after its growth increased around Harrington Sound).
- Studies of phosphorus content derived from detergents.
- Bi-annual investigations of the population of the calico clam.

One of the general recommendations in what is otherwise a very technical report is the development of a sensible solution to problems

caused by the airport dump and also a feasibility study on the possibility of replacing cesspits with small sewage treatment units.

Dr. Stubbs, accompanied by Agriculture and Fisheries Director Dr. Idwal Hughes, said Government was weighing up the various suggestions. He pointed out that several of the recommendations, including the various studies, were already on line.

Mr. Timothy Jickells, an organic chemist who helped draw up the report, also said that the detergent issue had been eased already by the use of "softer" detergents which had helped reduce phosphorus build-up.

The study also pinpoints why Hamilton Harbour appears green at times. The colour change stems from seasonal phytoplankton blooms that seem to favour the harbour.

The report calls for a coral reef study using the site where the vessel *Mari Boeing* grounded. Blasting there in 1979 to make a clear tow path for the hull damaged a nearby reef and has presented scientists with an "invaluable" opportunity to see how damaged Bermuda reefs re-establish themselves.

CSO: 5200/7507

COLOMBIA

LOS DIPLOMAT ON RELATIONS WITH VENEZUELA

Bogota EL TIEMPO in Spanish 4 Oct 82 p 14-B

[Text] The small Los Monjes islands make neither a continental shelf nor an exclusive economic zone because the new international law establishes it that way, said the chief of the Colombian delegation to the UN Conference on the Sea, Hector Charry Samper.

In explaining the reaches of the UN Convention of the Sea, Charry said that it is the first time that maritime law, which previously was dictated by the great powers, is going to be determined by the UN members.

In this way, he emphasized, the countries of Latin America have made an important contribution to this new law of the sea, or international law: they were the first to establish the 200-mile limit as a national economic zone, one of the fundamental clauses in the convention.

In statements on the program, "Five Reporters and the Personality of the Week" from Caracol, the Colombian diplomat commented that the other consequence of the new agreement is that new maritime dimensions have appeared: no longer is this just a medium for navigation with fishing resources, but due to techno-scientific advances, the possibility of marine mining is coming into play with multinational enterprises which are now commercially exploiting those resources.

Moreover, the bases and criteria have been set for delimiting marine and submarine areas in all cases concerning states with adjacent or opposing shorelines, and a special court is being established, the International Court of the Sea, which is going to replace the International Court of Justice in these matters and which is going to take up delimitation problems and litigation.

Asked if the new agreement would restrict the law concerning keys in all seas and if, in the case of Venezuela with the Los Monjes, would it change all the ground rules in relation to the differences with Colombia, Charry Samper said: "The Convention of the Sea establishes criteria for the delimitation of the different marine spaces. In the first place, coastal spaces have an exclusive economic zone up to 200 miles and beyond those 200 the zone is referred to as 'common heritage of mankind.' This means there will be no exploitation of the resources of the sea outside that authority without permission of the court which is being set up in Jamaica for exploitation of polymetallic moduli and

the wealth of the sea. But, it also means delimiting between states with adjacent or opposing coasts. It is entirely a natural phenomenon, not a desire or a claim by a neighbor. According to the convention, it is an obligation of states to delimit their areas."

The Colombian ambassador insisted that delimitation is an obligation, because if the countries with adjacent or opposing coasts do not do it, the authority will not be able to come in to make use of the common heritage of mankind for the benefit of the people.

He reaffirmed that the continental shelf is an important matter which establishes a system of delimitation. "Territorial waters extend to 12 miles and, in the case of delimitation between states with adjacent or opposing coastlines, the average line is applied--a thesis to which Colombia has been traditionally linked."

--Whomsoever does not subscribe to the new convention is not obliged to fulfill it. Then, what is going to happen with Venezuela?

"It is an internal decision about which I do not express an opinion and which I deeply respect. International law has established bases which are fundamental and which obligates them oftentimes, even when states do not sign conventions. An international law does exist which cannot be ignored by anyone."

--Whom does the convention most favor, Colombia or Venezuela?

"It seems to me that here are the facts. This is a convention with some precise rules that express the will of the international community. Colombia has already acknowledged it, that which leans towards constitutional processes and we put ourselves in the hands of international law."

--Does the Convention of the Sea establish a certain time limit for delimiting areas?

"No. No time limit is fixed, but the convention does establish some rules about what should be done when there is a controversy if no agreement has been reached.

It states that when an agreement has not been reached neither of the two parties can do anything that would jeopardize the final negotiation, or that could mean unilateral exploitation of the resources of the area in question."

Finally, Hector Charry characterized himself as a "thoughtful supporter" of Colombia's entry into the Movement of the Non-Aligned Countries and he said that the government of President Belisario Betancur may have opened the door for this entry which, he said, will permit strengthening our negotiating power to defend our interests.

9908
CSO: 5200/2000

JAMAICA

SHEARER CALLS FOR RATIFICATION OF LAW OF THE SEA

FL111930 Kingston DAILY GLEANER in English 8 Oct 82 pp 1, 20

[Excerpts] Foreign Minister the Rt. Hon Hugh Shearer yesterday called for early ratification by member states of the Law of the Sea Convention as he delivered Jamaica's major policy address before the United Nations General Assembly in New York.

He also expressed the hope that no country or group of countries would engage in action or adopt measures that would undermine the convention.

The deputy prime minister said that Jamaica has a great sense of pride at having been selected as the site of the international seabed authority, the preparatory commission and the ceremony for the signing of the convention.

He said that it is essential that, consistent with the programme and objectives of the preparatory commission, adequate provision be made for its effective functioning.

Mr Shearer said: "We exhort all states to sign and ratify the convention as quickly as possible, so that it will enter into force in the shortest possible time. An early entry into force of the convention can only operate to the advantage of all countries, developed and developing, particularly where it deals with the regime for the exploration and exploitation of the deep seabed.

"We would not wish anyone to be left in doubt as to our view that activities in the international seabed area can only take place lawfully within the framework established by the convention. We hope that no country or group of countries will engage in action or adopt measures whose effect will be to undermine the convention." [passage omitted]

He said that Jamaica was disappointed that the recent second special session of the General Assembly devoted to disarmament failed to achieve any significant results, particularly regarding a comprehensive programme of disarmament.

Turning to economic issues, Mr Shearer said that Jamaica's analysis of the global economy has highlighted the need for immediate action. If the world is to avert the collapse of the international system.

"We are all agreed on the necessity to achieve a rate of economic growth consistent with the aspirations of our peoples and the requirements for achieving international peace and security," he said.

"In seeking to fulfill these objectives, we must make a special appeal to the developed countries to desist from the application of protectionist trade policies," he said.

Mr Shearer said that these policies, based on the experience of the 1930's, have shown that measures to protect sectors in economies that have lost their competitive edge in the international market place are self-defeating:

"They have only to contract international purchasing power and generate unemployment in their own economies as well as in the economies of the developing world that provide markets for their exports."

Mr Shearer said that Jamaica is firm in the view that it is the market-place and the work-place of the developing world which holds the best solution for reflation without inflation:

"The unsatisfied and growing demands of the consumer market; the unsatisfied and growing capabilities of the work force of a growing number of developing countries need only the catalyst of expanded credit resources to fuel an expansion of trade through exported growth."

He said that Jamaica commended for the consideration of the General Assembly the essential features of Prime Minister Edward Seaga's presentation on the subject at the recent joint meeting of the World Bank and the International Monetary Fund in Toronto, Canada.

Mr Shearer said that the proposed global round of negotiations, which has been under consideration for the past three years, must now be recognized as offering the best prospect of bringing about the changes required to establish an economic system which can fulfill "the aspirations of our time."

CSO: 5200/2002

JAMAICA

JAMAICA REPORTS PREPARATIONS FOR ISA OFFICES

Bridgetown CANA in English 2044 GMT 30 Oct 82

[Text] Kingston, Jamaica, 30 Oct (CANA)--Jamaica's preparations to host the headquarters of the International Seabed Authority (ISA) as well as the signing in early December of the Law of Sea Convention, have received full approval from a United Nations review mission that visited the island recently, a statement from the Foreign Ministry here has said.

The island was earlier this year selected as the site for the ISA headquarters, the body that will oversee the implementation of the convention, and a temporary headquarters is being built on the Kingston waterfront.

The building is expected to be completely ready in time for the first meeting of the ISA Preparatory Commission next March.

Additionally, Jamaica was recently named the venue for the signing of the treaty after Venezuela withdrew.

The Foreign Ministry said that a seven-member mission from the United Nations Conference on the Law of the SEA (UNCLOS) was here between 18 and 23 October, visiting the temporary headquarters building and holding talks with government officials and agencies which are responsible for its completion on time and the smooth functioning of the facility.

The mission also reviewed planning for the signing session of the Law of the Sea Convention in the northwestern city of Montego Bay, and on both counts were satisfied, the Foreign Ministry said.

CSO: 5200/2000

INTERNATIONAL AFFAIRS

SPANISH FISHERMEN PROTEST FRENCH POLICY IN BAY OF BISCAY

Madrid EL PAIS in Spanish 16 Oct 82 p 42

[Article by Ignacio Alonso]

[Text] Shipowners of Spanish fishing boats accuse the French minister of Maritime Affairs Louis Le Pensec, of demagogic practices, and they make the accusation that the French fishing policy is directed toward delaying the admission of Spain into the EEC and reducing the strength of our fleet in European waters, which would make easier the massive penetration of Gallic products into the peninsular market

The French minister of Maritime Affairs, Louis Le Pensec, threatened at the beginning of the month in Luxembourg to reject any fishing agreement between Spain and the EEC for 1983 if guarantees were not obtained that the Spanish vessels will respect community regulations and will give up unauthorized fishing in the Bay of Biscay.

The Spanish reply, through the Spanish Federation of Shipowners of Fishing Boats and the Association of Shipowners of Pasajes, was not long in coming. The Spanish federation accuses Le Pensec of wanting to hide with his words the French intention of reducing the strength of the Spanish fleet to the advantage of his own fleet, and to introduce their produce easily in our market which is eager for marine products. The shipowners of Pasajes are protesting because of the effort made to adapt their fleet to the licenses that the EEC is offering and because of the lack of respect toward their wishes. "We believe," they say in a letter remitted to Louis Le Pensec, "that the measure announced by the French Government does not value the considerable effort made by the shipowning sector of this port of Pasajes, and we hope that they will consider our situation."

The Federation of Shipowners goes further, and not only does it directly reject the accusation that the Spanish vessels do not respect community regulations, but it also transfers the accusation of unauthorized fishing to the French fleet itself. The shipowners believe that the opportunities for breaking the EEC's fishing regulations are minimal, and they describe in detail that a Spanish vessel, in the case of transgressing the EEC's rules, is punished twice, because first a fine is imposed on it and afterwards the community itself withdraws its fishing license from it.

On the list of community contradictions, the shipowners assert that the Spanish fishing vessel "Martimuno Segundo" had its right to a community license suspended for 12 months on the claim that it was seen and photographed fishing in community waters last 20 February. And on that date the boat was moored in the port of Pasajes.

Behind the statements of the French minister, the shipowners understand that there is hidden the intention to limit, at the next negotiation of the fishing agreements between Spain and the EEC (which begins next month), the number of boulter vessels, the skill of selective fishing toward which many Spanish trawlers evolved in recent years. The aim in all cases is the same: to increase the power of the French fleet and to easily introduce fish in the Spanish market. At the present time, the number of community licenses has reached 128.

Confrontations in Galicia

Directors of the Association of Shipowners of the Galician trawler fleet were studying at the last minute on Wednesday night the possibility of revoking the announced mooring of the 160 vessels that are operating with this type of fishing in Galicia, after participating in a meeting called by the Fishing Council of Xunta, which was also attended by representatives of the boulter method fleet. Trawler and boulter fishermen maintain a confrontational attitude about the opportuneness of a ministerial order of last February, by which the prohibition on boulter fishing on the Galician continental platform, which is only 17 miles wide, was extended to depths less than 200 meters, reports ANXEL VENCE.

Moreover, the Catalonian fishermen will respect the agreements signed with the Basques on tuna fishing, as has been announced by the fishing director of the Basque government, Miguel Muruaga, regarding the conflict that has arisen because of the presence of the Basque fleet in Mediterranean waters.

The above mentioned agreement establishes that the Basque fleet will engage in tuna fishing in those waters under the standards and rules for fishing of those associations. This agreement was contested by some associations in the Mediterranean, which provoked the government fishing authorities into sending telegrams to the parties in conflict, ordering them to allow the Basque fleet to fish provided that it complies with the agreement in all its conditions.

The Spanish fishing boats "Maflor", "Mariscos Rodriguez 1" and "Virgen de la Palma", seized last week by Portuguese patrol motor launches, returned to Isla Cristina after paying 170,000 pesetas for each boat as a fine for fishing in waters too close to the coast of Portugal.

The six Spanish fishing boats seized by Morocco last week are presently in the military zone of the port of Casablanca.

9545
CSO: 5200/2503

FEDERAL REPUBLIC OF GERMANY

COMMENTATOR RECOMMENDS GOVERNMENT NOT SIGN LOS TREATY

Frankfurt/Main FRANKFURTHER ALLGEMEINE in German 11 Sep 82 p 13

[Article by Klaus Broichhausen: "The Dispute Over the Riches of the Sea"]

[Text] The International Law of the Sea Conference, a mammoth undertaking of 160 countries, was the most expensive and longest conference of the United Nations. After its close it is completely unclear what will become of the new Law of the Sea Convention which the conference adopted in the spring and which will be presented for formal signing after the end of the year. No one knows what the paper, described as having 320 articles, 9 annexes and 5 resolutions, is worth as the result of 9 years of conferences. President Reagan has already pushed it aside as unusable. The Federal Government still does not know what to decide. Developing countries increasingly notice that the convention, forced through with a Third World majority, was a wild goose chase for them, for only a few developing countries can derive any benefits from it.

If so many questions are touched upon in a conference, it cannot be only a matter for experts on the law of the sea. The new convention concerns everyone. In particular it does not concentrate, like the regime currently in force, on pure law of the sea matters, but spills over into a comprehensive regime of the law and exploitation of the seas. This significance of the marathon conference was for years not perceived, either by the public at large or by the political leadership in Bonn. In the interior of Germany far too little attention was paid to how important it is for the Federal Republic, as an industrial state which depends on foreign trade and does not have enough of its own raw materials and energy, to be able economically to exploit the seas responsibly but with as much freedom as possible.

The exploitation of the sea is to be regulated anew from the legal, political, economic, ecological and strategic standpoints through the supplementary law of the Law of the Sea Convention. It involves the redistribution of the exploitation rights to 70 percent of the earth's surface. With all its reserves of food, energy, and raw materials, the sea is again divided among the community of states. The title "Law of the Sea Convention" does not do justice to this global precedent. It is really much more of a world economic convention for the seas. In addition to economic and transportation policy, the raw materials and technology policies are especially covered, along with security

and foreign policy. Since security interests are as much at stake as the economic interests of the Federal Republic, the Federal Government since the beginning of the conference has had to be particularly alert with the partners in the alliance lest the naval radius of defense be cut by the convention.

One question after another has been raised since the work was done in expert circles and in the conference hall to develop the narrowly defined law of the sea into a comprehensive legal system for navigation, fishing, oceanography, environmental protection, and for the deep seabed mining due to begin in the middle of the 1990's. Does the German merchant fleet, as an important service branch of a strongly export-oriented and import-dependent country, have enough space and loading possibilities in international transportation? Will we also in the future be supplied with fish at a more or less reasonable price? In the future will all states be able jointly to prevent the pollution of the sea? Can the successful German tradition of oceanographic research be continued? Will it be possible for the Federal Republic, poor in raw materials, to utilize the advanced position it has achieved in marine technology to improve its supply of industrially important nonferrous metals from the deposits at the bottom of the sea? Or is an economically feasible production of these raw materials, which lie in potato-sized manganese nodules on the sea bottom, to be denied to it?

To a part of these questions the text of the convention gives more or less satisfactory answers. This affects international navigation, which, despite a host of possibilities of coastal states to interfere, has been provided adequate freedom of movement. The new law of the sea would grant free navigation even to the navy in all waters outside the zone of sovereignty, which is extended from 3 to 12 nautical miles. Corresponding to the right of passage for merchant and naval navigation, air traffic is to be given unobstructed overflight. For the more than 100 straits in the world, complicated regulations have been detailed which indubitably confer on ships and cargoes of all sorts the right of transit in so-called transit straits. The air space above such straits may be overflowed by both civilian and military aircraft.

Along with these regulations in the general law of the sea, which satisfy the requirements of the Federal Republic by and large, that part of the convention devoted to marine environmental protection can also be judged positively. Ships are resolutely prevented from discharging harmful materials and pollutants into the sea. Environmental violators on the ocean are to be heavily fined. The control and prevention methods provided for the protection of the sea are, as a whole, without being diverted into perfectionism, so broad that they should be more effective than the environmental protection on land across frontiers. Another advance in the law of the sea is the fact that in cases of dispute the international arbitration and legal settlement of disputes will gain more binding authority through the new institution of a court of the law of the sea.

The Federal Republic Gets Only a Sliver

For the Federal Republic these are however the only satisfactory results of the Law of the Sea Conference. The Federal Republic experienced its first great disappointment already in the early stage of the conference in the

redivision of the seas; for it gets only a sliver of the fish stocks and of the enormous reserves of oil and gas in the sea. The fishing grounds lie 80 percent and the oil deposits 90 percent within the 200-mile zone, over which only the coastal states have the power of disposal. Their jurisdiction is extended even beyond the so-called economic zone and onto the continental shelf, and "mountain ranges" in the middle of the oceans. The sphere of influence of the coastal states is to end finally at a maximum of 350 nautical miles.

It now depends on the good will of the haves whether German high seas fisheries can go out fishing and maintain the fish supply under economic conditions. Even German oceanography--the prerequisite for intelligent exploitation of the sea--is possible in the economic zones only if the coastal states agree. German interests are therefore demonstrably the loser in the embittered distribution battle in the Law of the Sea Conference. Even if the interests of the Federal Republic in this redistribution conference had been more stubbornly and imaginatively defended, the convention would not have looked much more favorable under this heading. As a country with a short coastline the Federal Republic, like other states in a disadvantageous geographic position, could not have been awarded any broad economic zone. The so-called long coastline states and countries with islands on the other hand are by nature the winners of the law of the sea conference. France is an example. Favored by its island colonial possessions, it is awarded 30 times as much sea space. A small group of 10 states with a long coastline has a legal grip on more than 50 percent of all economic zones. "The states with long coastlines," complains the Schleswig-Holstein economics minister Juergen Westphal, "are intolerably favored with their own sea space and their own reserves at the expense of the remaining states, while the other countries over the long run are cut off from the blessings of the sea."

Since the coastal states can claim so much space from their shores, the freedom of the seas, as Hugo Grotius, one of the ancestors of the law of the sea in the 17th Century appreciated, is lost by a nautical mile. When the Law of the Sea Conference distributed sovereignty and exploitation rights too generously to the coastal states, it departed far from its original course, which was wrapped up in the slogan: The sea is the common inheritance of mankind; it belongs to all peoples. Instead it has now been nationalized even beyond the traditional three-mile sovereignty zone. On the ocean the greatest land grab in world history is taking place.

The convention of course is only sanctioning a development which had long been under way. One country after another began to confiscate sea space off its coast and place it under its national jurisdiction. There was nothing left for the Law of the Sea Conference to do but confirm accomplished facts and legally assign to the coastal states what they had already taken for themselves: the economically most valuable and most easily accessible resources of the sea. The new law of the sea can only prevent coastal states from continuing their confiscations of sea space. An amended convention at least justifies the hope, as Federal Foreign Minister Genscher says, that the anarchy which has prevailed for years on world seas will stop. Indisputably legal security must be restored and new conflicts headed off.

On the other hand, buried in the text of the convention itself there is much fuel for conflict, which is already being ignited before the results of the conference have even received the force of law. Thus there is a basis for war over the Falkland Islands in the fact that Great Britain and Argentina both want to keep the oil and gas-bearing economic zone around the miserable island. The exploitation rights falling to the islands reach as far as the mineral-rich Antarctic. The new law of the sea space regime has similarly burdened the Aegean with the potential for conflict. Disputes may also result from the territorial expansion elsewhere, whether in the Caribbean or in the peripheral seas of East Asia.

After the riches off the coasts were distributed through nationalization, the battle for the treasures of the ocean in the rest of the high seas broke out in the final phase of the Law of the Sea Conference. While the water space will remain open sea, the ores detected in the nodules on the sea bottom, whether manganese, nickel, cobalt, or copper, are to be placed by the Law of the Sea Conference under the custody of the United Nations. In this titanic struggle over future deep sea mining, the stake for the Federal Republic is not only the manganese nodules as a welcome reserve of raw material, and not only additional export opportunities for German industry with a new technology for the mining of the nodules. At the same time the market economy as a basis of world economic cooperation is being debated. The majority of the conference, led on by the Third World, wants to throw market economics overboard. The developing countries insist on state-directed experiments in seabed mining, although so many of them have in the meantime accumulated bad experiences in their own countries with planned economy models.

Even The Third World Would Do Better With Private Initiative

The states of the Third World, as has been often demonstrated, develop more rapidly if they are oriented toward the market economy at least in the beginning. They do better with more private and less state initiative. Sea mining, as a great asset of international division of labor, would have to be carried out with as much private economic initiative as possible. It can proceed certainly only within a firm framework of regulations. Within this framework the developing countries must have a chance to participate appropriate to the riches of the sea. The basic capital for this sea mining is nevertheless to come from suppliers of capital the world over, who must regard the prospect as enticing in order to provide the many billions necessary for the economic and technological adventure of deep sea mining. It would be a mistake to assume that this new and unusual task in the interest of mankind can be mastered only by states, organizations of states, and international organizations, at least under the domination of state or supranational authorities. Sea mining needs adequate private, entrepreneurial pioneering spirit and a sufficiently market oriented organization, not as a matter of ideology, but because it is more effective than all planned economy models.

The Third World on the other hand has devised a world raw materials bureaucracy for sea mining. It is to be directed unilaterally by the developing countries. Private initiative has only a marginal role in this so-called "sea regime." As this regime has been negotiated in the Law of the Sea

Conference, the developing countries will hardly derive any benefit from it. It would at the most help a few states in the traditional production of non-ferrous metals. All in all the production of the resources of the ocean would be more hindered than helped. Deep sea bed mining would be delayed and made more expensive, and could perhaps even be crippled.

A series of obstacles have been built into the planned regulation of seabed mining: 1. A superbureaucracy, a sea authority of the United Nations would necessarily make deep sea mining cumbersome. 2. Private initiative would have too little room alongside the sea authority's own mining undertaking (Enterprise). 3. An economically stable development of the international collective enterprise and the private and state mining companies working parallel with it would be made impossible through irrelevant political influence by the authority. 4. The investment risk, which is extraordinarily high in any case, would be even more discouraging through the price and quantity regulations of this model. 5. Seabed mining is artificially to be limited to take into account mining on dry land. 6. The economic feasibility of deep seabed mining will be further jeopardized by the excessively high financial fees which are to be paid by the licensees to the sea authority. Up to now the demands have been so exorbitant that seabed mining cannot compete with mining on dry land. 7. Even the development of modern marine technology could not be amortized, since the marine technology industry is to be forced to turn over to the seabed authority and interested parties of the Third World the most up to date equipment at allegedly commercial, but nevertheless on balance unsuitable prices.

All this involves too much protectionism, bureaucratic high-handedness, legal and economic insecurity and political tumult. Completely new forms of state economic planning are to be introduced into the world economic system through the Law of the Sea Convention. If traditional raw materials production is to be protected by production limitations in seabed mining against competition from new mining areas, in this case on the seabed, it is highly questionable economically and politically. One must also reject a new-style compulsory industry, which provides for delivery of technology at discount prices. The right of ownership in the text of the convention is grossly disregarded with this summons to forced technological transfer. National technical developments are to be socialized internationally. Were all this to become reality for the first time there would be practiced that new "world economic order" which the Third World has been demanding for years at all conferences of the United Nations: a comprehensive planned world economy. This "deep sea regime" would be, as the Schleswig-Holstein Minister of Economics Westphal says, is an historic decision to the extent "that the United Nations would for the first time get an organization at its disposal which would receive supranational management assignments and with the help of its own mining enterprise would also be commercially active--a completely new development."

The Federal Government and all parties in the Bundestag have so far left no doubt that they regard such a bureaucratic-planned economy structure--like an octopus on seabed mining--as a mistake. Recently all the errors were listed in a reply of the Federal Government to a major interpellation of the opposition. Nevertheless there are still advisers in Bonn who recommend the

signature of the convention on three grounds: First, the usable part of the law of the sea is so important that the disadvantages in deep seabed mining should be taken into the bargain. Secondly the relationship between the industrial nations and the developing countries should not be further burdened by a crude rejection of the convention. Thirdly the Federal Republic can secure a seat and a voice, and hence influence in the preparatory commission, which makes important prior decisions for future sea mining.

These viewpoints are certain to be taken into account when the arguments for or against accession to the convention are soon to be weighed in Bonn. But in this regard the possibilities of changing the system in the preparatory commission must be considered slight; for the commission, like the plenum of the Law of the Sea Conference, has a majority of the developing countries, so that the Federal Republic and other industrial states disillusioned over the sea regime have practically no influence in it.

The West Cannot Overlook Reagan's Rejection

The key question in the decision on the convention must be: Can Bonn place its signature on a draft treaty which the government and parliament consider unacceptable in essential passages? The American President is logical on this point. He does not sign what he considers to be false. The Federal Government cannot ignore this clear No, since it fully shares Reagan's opinion on deep seabed mining. Bonn must adjust itself to the idea likewise of not signing the convention. Nevertheless there is much in the meantime to discuss with the Western partners, which "at the highest level" and even at the summit have altogether neglected or forgotten the Law of the Sea Conference.

The West should try once again to make a sincere attempt to arrive at a common approach to the question of the seabed mining, and at the same time consult with a Third World on reasonable compromise solutions in intensified contacts. The Third World must be made aware that the Convention on the Law of the Sea will become waste paper if other industrial nations join the United States, the greatest oceanic and industrial power, in refusing to sign.

6108

CSO: 5200/2123

END